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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/327,085	06/04/1999	JOSEPH BACH		5016

27460 7590 10/15/2002

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EXAMINER

VIG, NARESH

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 10/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/327,085

Applicant(s)

BACH, JOSEPH 

Examiner

Naresh Vig

Art Unit

3629

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 September 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

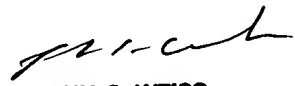
Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1 - 2 and 5 - 6, 10 & 12

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
**JOHN G. WEISS**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

August et al. discloses a capture device receives the perceptible signal, and a decoder extracts the spread spectrum encoded data from the received signal. The method is particularly useful in encoding purchase information or watermarking information into the signal (abstract).

A portable capture device is used to capture in a wireless manner encoded non-discernable data from a light emitting device such as a television or other video or audio output device. The capture device uses the captured data to initiate a transaction, such as placing a telephone call and transmitting a message to a remote agent or automated attendant, and delivering the data to a point-of-sale agent directly or indirectly via a telecommunication connection (col1, lines 13 - 20).

This data is part of the ordinary program displayed by the device and yet non-discernible by a viewer or listener. As an example, a television monitor may be located in a kiosk or other public area, and display the advertising of selected services and products. The non-discernible data may be information needed to order those services or products, including prices, delivery intervals, shipping details, coupon offers, and other related information (col. 1, lines 21 - 28).

The captured data may be used to initiate a transaction with a person at an agent terminal, or a person at another terminal that is supported by an interactive service platform. For example, the program may be an advertisement for a service or product, and the data stream may convey information needed to order those services or products, including prices, delivery intervals, shipping details, coupon offers, and so-on (col. 5, lines 36 - 43).